

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Mar-Can Transportation Company, Inc.,

Plaintiff,

-against-

Local 854 Pension Fund,

Defendant.

20-CV-8743 (CS)

ECF

**PLAINTIFF'S INITIAL  
DISCLOSURES**

Pursuant to Fed. R. Civ. P.26(a)(1), Plaintiff Mar-Can Transportation Company, Inc. ("Plaintiff" or "Mar-Can") by its attorney Law Offices of Jennifer Smith PLLC, makes the following initial disclosures:

**1. Individuals Likely to Have Discoverable Information that Mar-Can May Use to Support its Claims or Defenses**

- a. Victoria Jones, actuary for Defendant Local 854 Pension Fund ("Teamsters Fund"), concerning the funding assumptions used in the relevant calculations.
- b. Danny Gatto, former trustee of the Teamsters Fund, concerning the funding assumptions used in the relevant calculations.
- c. Bryan McCarthy, counsel to the ATW Local 854 Pension Fund ("ATW Fund") concerning the non-party ATW Fund's status as a multi-employer defined benefit fund.

**2. Copy or Description of Documents That Mar-Can May Use to Support its Claims or Defenses**

The following documents have already been produced by Mar-Can to the Teamsters Fund and/or filed on the court docket. We do not currently anticipate the need for additional documents that are not in the possession of the Teamsters Fund itself, except to the extent additional Teamsters Fund participants become eligible for a pension transfer, or in rebuttal

of defenses raised by the Teamsters Fund. For convenience in future reference, we have assembled these previously produced documents and bates stamped them Mar-Can 0001-0046:

- a. NLRB certification (Mar-Can 0001-0002)
- b. Teamsters Fund's withdrawal liability assessment against Mar-Can (Mar-Can 0003-0007)
- c. Mar-Can withdrawal liability payment receipts (Mar-Can 0008-0012)
- d. Redacted ATW Fund Summary Plan Description (Mar-Can 0013-0018).
- e. Redacted CBAs between ATW Local 854 and Mar-Can, Empire State Bus Corp., Allied Transit Corp., and Empire Charter Service, Inc. (Mar-Can 0019-0028).
- f. Mar-Can remittance report to ATW Fund and ATW Fund participant by shop report for Mar-Can (Mar-Can 0029-0045)
- g. ATW Fund Contribution Payment Record by Shop for Mar-Can (Mar-Can 0046).

**3. Computation of Each Category of Damages Claimed**

The documents required to calculate the pension transfer are all in the possession, custody and control of the Teamsters Fund, consisting of pension credit records, employer contribution records, and Teamsters Fund funding and other actuarial assumptions.

**4. Insurance Agreement That May Cover All or Part of a Possible Judgment**

This question does not apply to Mar-Can, which has not been sued for money damages.

Dated: New York, NY  
March 24, 2021

LAW OFFICES OF JENNIFER SMITH PLLC

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